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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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29078	7590	10/09/2009		
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EXAMINER				
FOX, CHARLES A				
ART UNIT		PAPER NUMBER		
3652				
NOTIFICATION DATE		DELIVERY MODE		
10/09/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/562,632

Applicant(s)

LAUVDAL, OLAV

Examiner

Charles A. Fox

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3, 5 and 7-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3, 5 and 7-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 May 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/S508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,3,5,7 -9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The preamble is confusing as a lifting device is presented in multiple areas of the claim, but it appears to be referring to different devices each time. In the first and third instances it looks to be pertaining to the overall structure of the forklift and the carrier. In the second instance it appears to only apply to the carrier part and its associated structure. Clarification is required.

Claim 1 recites the limitation "the device" bridging lines 16-17. There is insufficient antecedent basis for this limitation in the claim. What is the device? There are any number of different devices previously mentioned in the claim. In the art rejection below the claim is treated as best understood by the examiner.

Any claims not explicitly rejected under 35 U.S. C. 112 are rejected based solely on their dependency on an indefinite claim.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,7,8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kristensen in view of Condrey. Regarding claims 1 and 7 Kristensen US 6,024,529 discloses a device for use with a forked lifting vehicle, the device comprising:

- a pair of sleeve sections (21,21') making up a carrier mountable onto the forks (30,30') of said vehicle;

- a holding part (8) attached to said sleeve sections, said holding part having at least two securing devices (2) for securing an object to said holding part;

- a trigger device (20a-f) for operation of said securing devices. Kristensen does not teach the trigger is a guide part actuated by a lanyard.

Condrey US 5,590,839 teaches a lifting device for attachment to a forked member on a tractor comprising:

- a holding part for lifting and moving an object;

- a guide part (77) pivotally mounted to a holding part;

- a trigger (81) operatively attached to said guide part;

- a lanyard connected to said trigger for actuation thereof by an operator. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Kristensen with a separation device as taught by Condrey in order to allow a held object to be separated from the holding device without requiring the movement of the transfer vehicle.

Regarding claim 8 Kristensen also teaches a support (26) removable mounted at the base of the holding part.

Regarding claim 9 Kristensen further teaches that holding part is rotatably attached to the carrier part thus enabling the holding part to be moved to a new position and fixed therein.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kristensen and Condrey as applied to claim 1 above, and further in view of Friedrich et al. Kristensen and Condrey teach the limitations of claim 1 as above, they do not teach the securing device as being magnets. Friedrich et al. US 6,471,273 teaches a device for lifting sheet metal goods comprising:

a holding part (2) with a plurality of permanent magnets (21) attached thereto;
a trigger mechanism (50) which causes the load and the holding part to be pushed apart a distance which is sufficient to allow the load to disengage with said magnets. It would have been obvious to one of ordinary skill in the art, at the time of invention to provide the device taught by Kristensen with a magnetic holding device as taught by Friedrich et al. in order to allow the device to operate without requiring any power source remote from the forked vehicle, thereby making the cost to build the device smaller.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kristensen and Condrey. as applied to claim 1 above, and further in view of the admitted prior art. Kristensen and Condrey teach the limitations of claim 1 as above, they do not teach the use of telescopic forks. The admitted prior art as disclosed at the last section of page 3 and bridging page 4 of the specification telescopic forks are used on the transfer vehicle which the carrier is attached. It would have been obvious to one

of ordinary skill in the art, at the time of invention to provide the device taught by Kristensen with telescopic forks and a fixed lanyard in order to automate the release of the object being moved via extension of the forks.

Response to Amendment

The amendments to the claims, specification, drawings and claims filed on May 28, 2009 have been entered into the record.

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. The applicant is correct in that the set of claims with 10 claims was examined in the last action. There were two set of claims with no status identifiers present filed on the same day. As claim 10 was present in one and not in the other it appeared that the set with claim 10 was amended. The current set of claims being examined are not compliant as claim 10 is not listed as being cancelled as it should in all subsequent submissions.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Fox whose telephone number is 571-272-6923. The examiner can normally be reached on 7:00-4:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on 571-272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles A. Fox/
Primary Examiner, Art Unit 3652